

No. 24-13102

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

PROPERTIES OF THE VILLAGES, INC.,

Plaintiff-Appellee,

v.

FEDERAL TRADE COMMISSION,

Defendant-Appellant.

On Appeal from the United States District Court
for the Middle District of Florida

**STATUS REPORT AND MOTION TO HOLD
APPEAL IN ABEYANCE FOR 60 ADDITIONAL DAYS**

ERIC D. MCARTHUR

Deputy Assistant Attorney General

MICHAEL S. RAAB

SEAN R. JANDA

Attorneys, Appellate Staff

Civil Division, Room 7260

U.S. Department of Justice

950 Pennsylvania Avenue NW

Washington, DC 20530

(202) 514-3388

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for appellant certifies that, to the best of his knowledge, the following persons and entities have an interest in the outcome of this litigation:

American Hotel & Lodging Association

American Investment Council

Araiza, William

Arensmeyer, John

Associated Builders and Contractors, Inc.

Baker & Hostetler LLP

Barack, Ryan D.

Bedoya, Alvaro

Boucek, Carolyn O.

Boynton, Brian M.

Consumer Technology Association

Corrigan, Hon. Timothy J.

Covington & Burling LLP

Creed & Gowdy, P.A.

Crooks, Jamie

Democracy Forward Foundation

Dempsey, Rachel

Emmer, Daniella

Epstein, Becker, & Green, P.C.

Fairmark Partners LLP

Farby, Lesley

Federal Trade Commission

Ferguson, Andrew N.

Friedman, Todd R.

Futures Industry Association

Glover, Matthew J.

Goodnature, Taisa M.

Gowdy, Bryan

Grigsby, Stacey K.

Hearn, Robert

Holyoak, Melissa

Home Care Association of America

Hudson, Brian

Independent Electrical Contractors

International Franchise Association

Janda, Sean R.

Klein, Jonathan M.

Khan, Lina M.

Kwall Barack Nadeau PLLC

Lammens, Hon. Philip R.

Lieberman, Michael

Liu, Wendy

Lubbers, Jeffrey

Managed Funds Association

Martin, Meagan L.

Mayer Brown LLP

McArthur, Eric D.

Meador, Mark R.

Mittal, Urja

Mody, Arjun

Muldowney, Patrick M.

Nachmany, Eli

Nadeau, Michelle Erin

National Association of Wholesaler-Distributors

National Employment Lawyers Association (Florida Chapter), Inc.

National Employment Law Project

National Federation of Independent Business Small Business Legal Center, Inc.

National Retail Federation

Parr, Jennifer

Posner, Eric A.

Properties of the Villages, Inc.

Public Citizen

Public Citizen Litigation Group

Raab, Michael S.

Restaurant Law Center

Rigby, Katherine G.

Roffino, John

Rose, Alexander

Saharsky, Nicole A.

Samburg, Mark B.

Securities Industry and Financial Markets Association

Seligman, David H.

Slaughter, Rebecca Kelly

Shane, Peter M.

Small Business Majority

Starr, Evan

Todd R. Friedman, P.A.

The Holding Company of The Villages, Inc.

The Villages of Lake-Sumter, Inc.

Thurston, Robin F.

Towards Justice

United States Council for International Business

Vernon, Emily A.

Warner, A. Millie

Weibust, Erik W.

Westmoreland, Rachael L.

Zehmer, Lauren Willard

s/ Sean R. Janda
Sean R. Janda

Pursuant to Federal Rule of Appellate Procedure 27 and this Court's order of March 20, 2025, the government respectfully submits this status report on ongoing agency proceedings and moves to hold this appeal in abeyance for 60 additional days. The government proposes to file a status report in 60 days regarding appropriate next steps in this appeal. Plaintiff consents to this motion.

1. In May 2024, the Federal Trade Commission issued a rule that defines most existing non-competes as unenforceable unfair methods of competition (subject to an exception for certain senior executives) and bans the future use of most non-competes. Non-Compete Clause Rule, 89 Fed. Reg. 38,342 (May 7, 2024). Plaintiff challenged that rule, and the district court entered a preliminary injunction prohibiting the Commission from enforcing the rule against plaintiff. *See* Dkt. No. 59, at 1-2. This appeal followed.

In March 2025, the Commission moved to hold this appeal in abeyance for 120 days. As that motion explained, the newly appointed Chairman of the Commission had publicly stated that he believed the Commission should reconsider its defense of the rule challenged in this case. In light of that statement, the Commission believed that holding this appeal in abeyance would conserve party and judicial resources and promote the efficient and orderly disposition of this appeal. On March 20, 2025, this Court granted the Commission's motion and directed that, at the end of the 120-day abeyance period, the Commission file a status report.

2. Since this Court granted the Commission's abeyance motion, the Commission has undergone significant personnel changes, including the Senate confirmation and the swearing in of Commissioner Mark Meador. In light of these changes and the press of Commission business, some additional time is necessary to determine whether the Commission should reconsider its defense of the rule challenged in this case. Thus, the Commission respectfully requests that this Court extend the previously granted abeyance for an additional 60 days. The Commission would respectfully propose that it file another status report at the end of that 60-day period regarding appropriate next steps in this appeal.

3. Plaintiff consents to this motion.

Respectfully submitted,

ERIC D. MCARTHUR
*Deputy Assistant Attorney General**

MICHAEL S. RAAB

s/ Sean R. Janda
SEAN R. JANDA
Attorneys, Appellate Staff
Civil Division, Room 7260
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-3388
sean.r.janda@usdoj.gov

July 2025

* The Assistant Attorney General is recused in this matter.

CERTIFICATE OF COMPLIANCE

This status report and motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(1)(E) because it contains 351 words. This status report and motion also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Garamond 14-point font, a proportionally spaced typeface.

s/ Sean R. Janda
Sean R. Janda